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Changes to Ontario Planning Legislation and Policy Information Report to Council

Report Number: INFO-2022-29
Department(s): Planning and Building Services
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In accordance with the Procedure By-law, any member of Council may make a request to the Town Clerk that this Report be placed on an upcoming Committee of the Whole agenda for discussion.

Purpose

This report will provide an update regarding recent changes that have been proposed by the province to Ontario's planning legislation and policy, specifically being Bill 23 and the Greenbelt Plan.

Background

On October 25, 2022, the government of Ontario introduced [Bill 23, the More Homes Built Faster Act, 2022](#) which proposes major changes to Ontario's land use planning system. Subsequently, on November 4 the province released proposed amendments to the Greenbelt Plan. Both of which would have significant impacts to Newmarket, if passed.

Discussion

Bill 23

Bill 23 is an omnibus bill that proposes changes to nine Acts, all intended to build more homes quicker in order to address the housing crisis. The province has targeted the creation of 1.5 million new homes by 2031.

The legislative changes proposed under Bill 23 represent extensive changes to Ontario's land uses system. These changes would impact many aspects of land use planning including natural heritage, hazards, cultural heritage, density increases, Inclusionary Zoning, the appeals system, the concept of growth paying for growth and the role of conservation authorities, among others.

Attachment 1 lists the changes to each piece of legislation and regulation as part of Bill 23 that would impact Newmarket, and their corresponding Environmental Registry of Ontario (ERO) posting (please note that some of Bill 23's items that would not affect Newmarket have been omitted from the list). The longest commenting timeline the province provided is 66 days however the majority of the commenting periods are much less than that, with some as short as 30 days. Due to the broad implications of these proposed changes, staff have concerns with these short consultation timeframes, especially considering the timing falls over transitional times for new municipal Councils. An extension of the commenting period to at least the end of January, 2023 is recommended for all postings.

Attachment 2 lists Bill 23's proposed changes by theme. A general description of staff's preliminary concerns on each proposed change is provided in the last column, however it is noted that this is not an in-depth analysis. These legislative changes (as well as those contained in Bill 109, the [More Homes for Everyone Act, 2022](#)) will be presented to Council in greater detail in early 2023.

Bill 23 includes specific housing targets for 29 selected municipalities, including Newmarket. Newmarket has been assigned 12,000 new units that are to be developed by 2031. Staff have taken a preliminary look at this target and assuming an even distribution of this 12,000 units by single detached units, townhouses and apartments (4,000 each), this would result in a population increase of approximately 33,000 people over the next 9 years. For perspective, Newmarket currently grows by about 1,000 people per year. Growing by 33,000 people over the next 9 years would require almost quadrupling our current growth rate. This rate of growth is problematic from financial, servicing (hard and soft), and community building perspectives. This concern is exacerbated by the proposed changes to the legislation that reduce a municipality's ability to collect adequate development charges and parkland fees. In essence, the long-established concept of growth paying for growth is compromised. Newmarket is also in the unique situation of having an unknown supply of sanitary servicing due to the simultaneous deletion of the Upper York Sewage Solution in favour of an alternative that is yet to be planned and designed as an expansion to the York Durham Sanitary System and the Duffins Creek Sewage Treatment facility.

Greenbelt Plan

Following the province's October 25 release of Bill 23, on November 4 the province released [ERO 019-6216](#) which proposes amendments to the Greenbelt Plan. The province is proposing to remove/re-designate 15 areas (totaling approximately 3000 ha) in a manner that would support development. There is one area of unconfirmed size that is proposed to be added to the Greenbelt Plan, located in the Paris Galt Moraine.

Attachment 3 is a map that shows one of the areas that is proposed to be removed/re-designated from the Greenbelt Plan area; this area is located immediately west of Newmarket in King Township. This would open these up to various forms of development including residential and institutional uses. Because this area is not in Newmarket, any development that occurs in this area will not count towards the aforementioned 12,000 housing units, however it is logical to assume this area would be supported by Newmarket in terms of the provision of hard and soft services. There are significant concerns with this, in that Newmarket would likely be tasked with providing services to support growth on these lands however the Town would not benefit from the additional tax base.

Conclusion

The changes proposed in Bill 23 and the Greenbelt Plan are profound and would deeply affect local municipalities' ability to grow in a financially sustainable manner. Many questions and concerns also remain regarding the incredibly high rate of growth that is necessitated by the housing targets, specifically how these numbers can be achieved while still creating well-planned, adequately serviced communities.

It is recommended that the province undertake meaningful consultation with local municipalities that includes a single, extended deadline for all ERO postings of at least the end of January 2023.

Business Plan and Strategic Plan Linkages

- Long-term Financial Sustainability
- Extraordinary Places and Spaces (priority focus on the Mullock park)
- Environmental Stewardship

Consultation

None

Human Resource Considerations

Bill 23, if passed by the province, would have many, significant human resource impacts to the Town.

Budget Impact

Bill 23, if passed by the province, would have many, significant impacts to the Town's finances.

Attachments

Attachment 1 – List of the changes to each piece of legislation and regulation as part of Bill 23 that would impact Newmarket

Attachment 2 – List of Bill 23's proposed changes by theme including a general description of staff's preliminary concerns

Attachment 3 – A map showing an area of potential removal/re-designation from the Greenbelt Plan, located immediately west of Newmarket in King Township.

Contact

Adrian Cammaert, acammaert@newmarket.ca

Approval

Adrian Cammaert, Manager, Planning Services

Jason Unger, Director, Planning & Building Services

Peter Noehammer, Commissioner, Development & Infrastructure Services

Attachment 1

ERO Posting	Description	Commenting Deadline
ERO 019-6160	Proposed Updates to the Ontario Wetland Evaluation System	November 24, 2022
N/A	Seeking Feedback on Municipal Rental Replacement By-Laws	December 9, 2022
N/A	Proposed Amendments to the Ontario Land Tribunal Act, 2021	December 9, 2022
ERO 019-6141	Legislative and regulatory proposals affecting conservation authorities to support the Housing Supply Action Plan 3.0	December 9, 2022
ERO 019-6196	Proposed Changes to the Ontario Heritage Act and its regulations: Bill 23 (Schedule 6) - the Proposed More Homes Built Faster Act, 2022	December 9, 2022
ERO 019-6163	Proposed Planning Act and City of Toronto Act Changes	December 9, 2022
ERO 019-6172	Proposed Planning Act and Development Charges Act, 1997 Changes: Providing Greater Cost Certainty for Municipal Development-related Charges	December 9, 2022
ERO 019-6197	Proposed Changes to Ontario Regulation 299/19: Additional Residential Units	December 9, 2022
ERO 019-6173	Proposed Amendment to O. Reg 232/18: Inclusionary Zoning	December 9, 2022
N/A	Seeking Input on Rent-to-Own Arrangements	December 9, 2022
ERO 019-6177	Review of A Place to Grow and Provincial Policy Statement	December 30, 2022
ERO 019-2927	Proposed updates to the regulation of development for the protection of people and property from natural hazards in Ontario	December 30, 2022
ERO 019-6161	Conserving Ontario's Natural Heritage	December 30, 2022

Theme	Summary of Bill 23’s Proposed Changes	Planning Staff Area(s) of Concern
<p>Inclusionary Zoning/Affordable and Attainable Housing</p>	<ul style="list-style-type: none"> • Exempt affordable residential units (generally defined as being priced at no greater than 80% of the average price/rent in the year a unit is rented or sold), attainable residential units, and inclusionary zoning units from DC, CBCs and parkland dedication • Introduce a category of “attainable housing” (not an affordable residential unit and not intended for rental residential purposes, and will be further defined in future regulations) • An upper limit of 5% of the total number of units in a development that can be required to be affordable as part of inclusionary zoning, and a maximum period of 25 years over which the units would be required to remain affordable (this is a proposed regulation change, not in the legislation itself) 	<ul style="list-style-type: none"> • Will have negative financial impacts due to the loss of revenue from development charges and add pressure to the municipality’s ability in maintaining service levels • “Affordability” should be defined based on income levels, rather than market values
<p>Parkland</p>	<ul style="list-style-type: none"> • The maximum amount of land that can be conveyed or paid in lieu is capped at 10% of the land or its value for sites under 5 ha, and 15 % for sites greater than 5 ha • Maximum alternative dedication rate reduced to 1 ha/600 units for land and 1 ha/1000 units for cash in lieu • Parkland rates frozen as of the date that a zoning by-law or site plan application is filed. Freeze remains in effect for two years following approval. If no building permits are pulled in that time, the rate in place at the time the building permit is pulled would apply • Encumbered parkland/strata parks, as well as privately owned publicly accessible spaces (POPS) to be eligible for parkland credits 	<ul style="list-style-type: none"> • Significant reduction from current rates and limits the Town’s ability to acquire parkland to support future growth • Decreased ability to financially support recreational services • Freezing of rate should be at the time of complete application, not at the time of submission • The requirement of Parks Plans should be exempt for minor amendments to the by-law that does not affect the parkland

Theme	Summary of Bill 23's Proposed Changes	Planning Staff Area(s) of Concern
	<ul style="list-style-type: none"> • Landowners can identify land they intend to provide for parkland, with the municipality able to appeal to the Tribunal if there is a disagreement • Parks plans to be required prior to the passing of any future parkland dedication by-law (would not apply to by-laws already passed) • Parkland dedication will apply to new units only (i.e., no dedication can be imposed for existing units) • Municipalities will be required to spend or allocate 60% of parkland reserve funds at the start of each year 	<p>dedication rate or cash-in-lieu of parkland requirements</p>
<p>Development Charges</p>	<ul style="list-style-type: none"> • Five year phase in of DC rate increases, beginning with a 20% reduction in the first year, with the reduction decreasing by 5% each year until year five when the full new rate applies. This is proposed to apply to all new DC by-laws passed since June 1, 2022. • Historical service level for DC eligible capital costs (except transit) extended from 10 to 15 years • DC by-laws will expire every 10 years, instead of every five years. By-laws can still be updated any time • Cap the interest paid on phased DCs for rental, institutional and non-profit housing to prime plus 1% • DC/CBC/parkland exemptions for attainable housing, which will be projects designated by future regulations • New regulation authority to set services for which land costs would not be an eligible capital cost recoverable through DCs 	<ul style="list-style-type: none"> • Significant reduction from current rates, which limits the Town's ability to maintain/improve on service levels • Decreased ability to financially support growth

Theme	Summary of Bill 23's Proposed Changes	Planning Staff Area(s) of Concern
	<ul style="list-style-type: none"> • Exclude the cost of studies (including background studies) from recovery through DCs • Municipalities will be required to spend or allocate at least 60% of DC reserves for priority services (i.e., water, wastewater and roads). • Discount for purpose built rental units, with a higher discount for larger units, on top of the existing DC freeze and deferral of payments over five years 	
<p>Community Benefit Charges</p>	<ul style="list-style-type: none"> • Maximum CBC payable to be based only on the value of land proposed for <i>new</i> development, not the entire parcel that may have existing development • Maximum CBC to be discounted by 4% of land value divided by the existing building size, as a proportion to total building square footage • CBC Agreement may be registered on title 	<ul style="list-style-type: none"> • Decreased ability to financially support growth
<p>Removal of Upper Tier approval powers</p>	<ul style="list-style-type: none"> • All upper-tier municipalities in the Greater Toronto Area, as well as Waterloo and Simcoe will be removed from the <i>Planning Act</i> approval process for both lower-tier official plans and amendments and plans of subdivision • Minister would (unless otherwise provided) therefore become the approval authority for all lower-tier OP and OPAs, and Minister's decisions are not subject to appeal 	<ul style="list-style-type: none"> • Further information on what types of OP/OPAs will be exempt from Minister's approval is required • Will the province be able to approve such a volume of planning instruments in a timely manner?

Theme	Summary of Bill 23's Proposed Changes	Planning Staff Area(s) of Concern
<p>Zoning in MTSAs</p>	<ul style="list-style-type: none"> Municipalities will be required to update zoning to include minimum heights and densities within approved Major Transit Station Areas (MTSA) and Protected MTSAs within one year of MTSA/PMTSA being approved. If zoning updates were not undertaken within the 1-year period, the usual protection from appeals to the Ontario Land Tribunal for PMTSAs would not apply 	<ul style="list-style-type: none"> Insufficient time to update zoning for all lands within PMTSAs/MTSA in Newmarket
<p>No third-party appeals</p>	<ul style="list-style-type: none"> No one other than the applicant, the municipality, certain public bodies, and the Minister will be allowed to appeal municipal decisions to the Tribunal for consent and minor variance applications Existing third-party appeals where no hearing date has been set as of October 25 will be dismissed. The scheduling of a case management conference or mediation will not be sufficient to prevent an appeal from being dismissed 	<ul style="list-style-type: none"> Reduction of public involvement in the planning process
<p>Gentle Density/Intensification</p>	<ul style="list-style-type: none"> As of right zoning to permit up to three residential units per lot (three in the main building, or two in the main building and one in an accessory building), with no minimum unit sizes New units built under this permission would be exempt from DC/CBC and parkland requirements, and no more than one parking space per unit can be required 	<ul style="list-style-type: none"> Servicing pressure Questions about applicability of development standards Decreased ability to financially support growth
<p>Subdivision approvals</p>	<ul style="list-style-type: none"> Public meetings no longer will be required for applications for approval of a draft plan of subdivision 	<ul style="list-style-type: none"> Reduction of public involvement in the planning process

Theme	Summary of Bill 23’s Proposed Changes	Planning Staff Area(s) of Concern
<p>Site plan control</p>	<ul style="list-style-type: none"> • Developments of up to 10 residential units will be exempted from site plan control • Architectural details and landscape design aesthetics will be removed from the scope of site plan control, except in the City of Toronto where exterior design may be addressed through site plan control relating to sustainable design 	<ul style="list-style-type: none"> • Reduction of public involvement in the planning process • Reduced ability for municipality to regulate urban design
<p>Rental Replacement</p>	<ul style="list-style-type: none"> • Minister to be given the authority to enact regulations related to the replacement of rental housing when it is proposed to be demolished or converted as part of a proposed development 	<ul style="list-style-type: none"> • Further information is required from the Province to assess the implication of this change
<p>Heritage</p>	<ul style="list-style-type: none"> • Municipalities will not be permitted to issue a notice of intention to designate a property under Part IV of the <i>Ontario Heritage Act</i> unless the property is already on the heritage register when the current 90 day requirement for <i>Planning Act</i> applications is triggered • Heritage registers to be reviewed and a decision made whether listed properties are to be designated, and if not, removed from the register • A process is proposed which will allow Heritage Conservation District Plans to be amended or repealed • Criteria for Heritage Conservation District Plans can be established for regulation 	<ul style="list-style-type: none"> • Major administrative and financial challenge with securing adequate human resources to assess our 358 “Listed” properties and preparing designation by-laws for each warranted property • Potential loss of cultural heritage resources









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<p>Ontario Land Tribunal procedures</p>	<ul style="list-style-type: none"> • The Tribunal will have increased powers to order costs against a party who loses a hearing at the Tribunal • The Tribunal is being given increased power to dismiss appeals for undue delay • The Attorney General will have the power to make regulations setting service standards with respect to timing of scheduling hearings and making decisions • Regulations can also be made to establish priorities for the scheduling of certain matters 	<ul style="list-style-type: none"> • Reduction of public involvement in the planning process
<p>Natural heritage planning</p>	<ul style="list-style-type: none"> • A program to offset development pressures on wetlands is being considered, which will require a net positive impact on wetlands. The language appears to contemplate that wetlands can be developed provided a net positive impact is demonstrated • The Wetland Evaluation System is also being revised, and the proposed changes would eliminate the concept of wetland complexes 	<ul style="list-style-type: none"> • Further analysis and consultation with LSRCA is required to better understand the implications




Theme	Summary of Bill 23’s Proposed Changes	Planning Staff Area(s) of Concern
<p>Conservation Authorities</p>	<ul style="list-style-type: none"> • Permits will not be required within regulated areas (including wetlands) for activity that is part of a development authorized under the Planning Act • A single regulation is proposed for all 36 Authorities in the province • Clear limits are proposed on what Authorities are permitted to comment on as part of the planning approvals process, which will keep their focus on natural hazards and flooding • A municipality can no longer choose to request that conservation authorities comment on conservation and environmental matters in the development review process, except for flooding and erosion 	<ul style="list-style-type: none"> • “Pollution” and “Conservation of Land” tests removed from permit assessments, results in potential loss of natural heritage resources • Newmarket relies on the LSRCA for technical expertise in reviewing applications. Major administrative and financial challenge of securing adequate human resources to assess development applications for environmental matters.

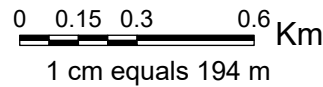
Summary information provided by Osler, Hoskin & Harcourt LLP, 2022

LEGEND



-  Greenbelt Area*
-  Protected Countryside
-  Natural Heritage System
-  Towns/Villages
-  Urban River Valleys
-  Settlement Areas Outside the Greenbelt
-  Municipal Boundary
-  Road or Highway

- Proposed Modifications
-  Greenbelt Redesignation
 -  Greenbelt Removal
 -  ORM Redesignation



Map North: 0°

Note: While every effort has been made to accurately depict the information, this map should not be relied on as being a precise indicator of locations of features or roads. For precise boundaries and locations of Settlement Areas, including Towns/Villages and Hamlets, the appropriate municipalities should be consulted.

Produced by and using data sources from the: Ministry of Municipal Affairs and Housing; Ministry of Northern Development, Mines, Natural Resources and Forestry; Ministry of the Environment, Conservation and Parks; and, the Ministry of Agriculture, Food and Rural Affairs.

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